

SENATE BILL No. 454

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-10.

Synopsis: Port commission powers. Authorizes the Indiana port commission to construct and finance: (1) maritime and nonmaritime port projects throughout Indiana for the transfer of goods and passengers between all modes of transportation; and (2) nonport projects to promote economic growth and development throughout Indiana. Specifies the powers of the commission with respect to these projects, including the conditions under which the commission may issue bonds and enter into various agreements.

Effective: July 1, 2003.

Kenley

January 21, 2003, read first time and referred to Committee on Economic Development and Technology.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 454

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-10-1-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. In order to promote the
3 agricultural, industrial and commercial development of the state, and
4 to provide for the general welfare by the construction and operation, in
5 cooperation with the federal government, or otherwise, of a modern
6 port ~~on Lake Michigan and/or the Ohio River, and/or the Wabash~~
7 ~~River, system~~ with terminal facilities to accommodate water, rail,
8 truck, ~~and~~ air-borne, ~~and other forms of~~ transportation, the Indiana
9 Port Commission is hereby authorized and empowered to construct,
10 maintain and operate, in cooperation with the federal government, or
11 otherwise, at such ~~location on Lake Michigan and/or the Ohio River,~~
12 ~~and/or the Wabash River, locations~~ as shall be approved by the
13 governor, **projects, including without limitation** public ports with
14 terminal facilities and traffic exchange points **throughout Indiana** for
15 all forms of transportation, giving particular attention to the benefits
16 which may accrue to the state and its citizens from ~~the St. Lawrence~~
17 ~~Seaway, all forms of transportation~~, and to issue ~~port~~ revenue bonds



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of the state payable solely from revenues, to pay the cost of such projects. **The commission's powers are not limited to ports and may be exercised throughout Indiana for projects that enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.**

SECTION 2. IC 8-10-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "commission" shall mean the Indiana Port Commission created by section 3 of this chapter, or, if said commission shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this chapter to the commission shall be given by law.

(b) The word "port" shall include **any combination of:**

(1) any place or places on Lake Michigan, the Ohio River, ~~and the Wabash River,~~ **or other water bodies**, natural or artificial, in which water-borne vessels capable of carrying articles of commerce over navigable bodies of water may be loaded, unloaded or accommodated; **and**

(2) **nonmaritime port and traffic exchange points throughout Indiana for the transfer of goods and passengers between all modes of transportation.**

(c) The ~~words "port word~~ "project" shall include:

(1) any facilities, adjuncts and appurtenances necessary **or useful** to operate a modern port, **whether or not permanently situated at the port**, including:

(A) the dredging of approaches ~~thereto; and including, among other things, but not limited to~~ **to a port; and**

(B) breakwaters, inner harbors, outer harbors, channels, canals, turning basins, docks, wharves, piers, quays, slips, loading, unloading, handling and storage equipment, warehouses, refrigerating plants and equipment, elevators for the handling and storage of grain, coal and other bulk commodities, terminal buildings or facilities, railroad equipment and trackage, roadways, airplane landing fields, parking lots, garages, automotive equipment, tugs, ferries, maintenance and construction vessels, communication systems, sewers, drains, works for the treatment of sewage, garbage and wastes, and the furnishing of utility service necessary to serve the property under the jurisdiction or

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control of the commission, and other buildings and facilities which the commission may deem necessary for the operation of the port; **and**

(2) any other project, whether located at a port or elsewhere in Indiana, that the commission finds will enhance, foster, aid, provide, or promote economic development, public-private partnerships, and other industrial, commercial, business, and transportation purposes.

(d) The word "cost" as applied to a port or port project shall embrace means:

- (1) the cost of construction;
- (2) the cost of acquisition of all land, rights-of-way, property, rights, easements and interests, including lands under water and riparian rights acquired by the commission for ~~such~~ construction;
- (3) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved;
- (4) the cost of relocating public roads;
- (5) **the cost of land or easements therefor, for roads;**
- (6) the cost of all machinery and equipment;
- (7) financing charges;
- (8) interest prior to and during construction and for not exceeding two (2) years after the estimated date of completion of construction;
- (9) **the cost of engineering and legal expenses, plans, specifications, surveys, and estimates of cost, traffic and revenues;**
- (10) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;
- (11) administrative expense; and ~~such~~
- (12) other expenses as may be necessary or incident to the **acquisition or** construction of the project, the financing of ~~such~~ **the acquisition or** construction, and the placing of the project in operation, **including the amount authorized in the resolution of the port commission providing for the issuance of port commission revenue bonds to be paid into any special funds from the proceeds of the bonds.**

(e) Any obligation, cost, or expense incurred by any governmental agency or person for surveys, borings, the preparation of plans and specifications, and other engineering services, or any other cost described in this section that is incurred in connection with the acquisition or construction of a project may

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1 be regarded as part of the cost of the project and may be
 2 reimbursed out of the proceeds of port commission revenue bonds
 3 as authorized by this chapter.

4 (e) (f) The word "owner" shall include all individuals,
 5 copartnerships, associations or corporations having any title or interest
 6 in any property, rights, easements and other interests authorized to be
 7 acquired by this chapter.

8 (f) (g) The word "revenues" shall mean all fees, tolls, rentals, gifts,
 9 grants, moneys and all other funds coming into the possession or under
 10 the control of the commission by virtue of the terms and provisions of
 11 this chapter, but shall not include real property or personal property
 12 other than money, nor the proceeds from the sale of bonds issued under
 13 provisions of this chapter.

14 (g) (h) The word "public roads" shall include all public highways,
 15 roads, and streets in the state, whether maintained by the state, county,
 16 city, township or other political subdivision.

17 SECTION 3. IC 8-10-1-3 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) There is hereby created a
 19 commission to be known as the "Indiana port commission" and by that
 20 name the commission may sue and be sued, and plead and be
 21 impleaded. The commission hereby created is a body both corporate
 22 and politic in the state of Indiana, and the exercise by the commission
 23 of the powers conferred by this chapter in the construction, operation
 24 and maintenance of a port or project shall be deemed and held to be
 25 essential governmental functions of the state, but the commission shall
 26 not however be immune from liability by reason thereof.

27 (b) The commission shall consist of seven (7) members, appointed
 28 by the governor, no more than four (4) of whom shall be members of
 29 the same political party. The members shall be residents of the state,
 30 and shall have been qualified electors therein for a period of at least
 31 five (5) years next preceding their appointment. The members of the
 32 commission first appointed shall continue in office for terms expiring,
 33 in the case of two (2) members, on July 1, 1962, and in the case of
 34 three (3) members, on July 1, 1963, July 1, 1964, and July 1, 1965 and
 35 the first two (2) members appointed after January 1, 1975, shall
 36 continue in office for terms expiring July 1, 1977 for one (1) member
 37 and July 1, 1979 for the other member, respectively, and until their
 38 respective successors shall be duly appointed and qualified. The term
 39 of any member of the commission first appointed shall be designated
 40 by the governor. The successor of each such member shall be
 41 appointed for a term of four (4) years, except that any person appointed
 42 to fill a vacancy shall be appointed to serve only for the unexpired



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term, and a member of the commission shall be eligible for reappointment. The governor may at any time remove any member of the commission for misfeasance, nonfeasance, or malfeasance in office. The members of the commission shall, within ten (10) days after their appointment, meet and qualify by subscribing an oath to discharge honestly and faithfully the duties of their office as members of such commission. The commission shall thereafter elect one (1) of the members as chairman and another as vice-chairman, and shall appoint a secretary-treasurer who need not be a member of the commission. Four (4) members of the commission shall constitute a quorum and the affirmative vote of four (4) members shall be necessary for any official action taken by the commission. No vacancy in the membership of the commission shall impair the rights of a quorum to exercise all the rights and perform all the duties of the commission.

(c) Before the issuance of any ~~port~~ revenue bonds under the provisions of this chapter, each appointed member of the commission shall give a surety bond to the state in the penal sum of twenty-five thousand dollars (\$25,000) and the secretary-treasurer shall give a surety bond to the state in the penal sum of fifty thousand dollars (\$50,000). Each such surety bond ~~to~~ **must** be conditioned upon the faithful performance of the duties of the office, to be executed by a surety company authorized to transact business in the state as surety and to be approved by the governor and filed in the office of the secretary of state.

(d) Each appointed member of the commission shall receive an annual salary of seven thousand, five hundred dollars (\$7,500), payable in monthly instalments. However, no members of such commission as appointed hereunder shall receive any salary except a per diem as fixed and approved by the budget director until said commission is able to carry on the full operations as intended by this chapter, and the budget director, subject to the approval of the governor of the state of Indiana, shall determine when said salaries for said commission members shall commence. ~~The governor shall, however, appoint said members as herein provided within a period of sixty (60) days following the effective date of this chapter.~~

(e) Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties.

(f) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and no liability or obligation shall be incurred by the commission hereunder beyond the extent to which moneys shall have been provided under the authority of this chapter.

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SECTION 4. IC 8-10-1-4 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: Sec. 4. ~~Port~~ Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, but such bonds shall be payable solely from the funds pledged for their payment as authorized in this chapter, unless such bonds are refunded by refunding bonds, issued under the provisions of this chapter, which refunding bonds shall be payable solely from funds pledged for their payment as authorized herein. All such revenue bonds shall contain on the face thereof a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state of Indiana, or of any political subdivision thereof, but are payable solely from revenues pledged for their payment. All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under the authority of this chapter and nothing in this chapter contained shall be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by the state or any political subdivision thereof.

SECTION 5. IC 8-10-1-5 IS AMENDED TO READ AS FOLLOWS
 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The Indiana port commission may:

- (1) prepare sketches, plans, and descriptive material relating to ~~such~~ ports or ~~port~~ projects, as in its discretion may seem feasible, to compile data and prepare literature as to the necessity or advisability thereof, and to do other acts and things it considers necessary to promote ~~such public port or port the ports or~~ projects and deems to be in the public interest;
- (2) carry on, in its discretion, negotiations and enter into agreements and contracts with the federal government or agencies of the federal government or an authority established under IC 36-7-23 for the building and construction of public ports including terminal facilities, to be located within Indiana, on Lake Michigan, the Ohio River, the Wabash River, or in waters adjacent to Indiana;
- (3) locate and acquire a suitable ~~site sites~~ for ~~such public port or port ports or~~ projects;
- (4) construct, develop, maintain, and operate the same in cooperation with the federal government, any agency of the federal government, a corporation established under IC 36-7-23, or otherwise, in such a manner and on such terms as will, in the discretion of the commission, best serve the commercial,



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1 industrial, and agricultural interests of the state;
 2 (5) provide adequate port and terminal facilities to accommodate
 3 water, rail, truck, and airborne transportation; and
 4 (6) provide a traffic exchange point for all forms of transportation,
 5 giving particular attention to the benefits which may accrue to the
 6 state and its citizens by the opening of the St. Lawrence Seaway
 7 and river transportation.

8 (b) The title to all property included in any port ~~or~~ project shall be
 9 taken in the name of, and shall be in, the state of Indiana.

10 SECTION 6. IC 8-10-1-7 IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2003]: Sec. 7. The commission is authorized
 12 and empowered **to do the following:**

13 (1) To adopt bylaws for the regulation of its affairs and the
 14 conduct of its business.

15 (2) To adopt an official seal which shall not be the seal of the
 16 state of Indiana.

17 (3) To maintain a principal office and sub-offices at such place or
 18 places within the state as it may designate.

19 (4) To sue and be sued, and to plead and be impleaded in its own
 20 name. However, actions at law against the commission shall be
 21 brought in the circuit court of the county in which the principal
 22 office of the commission is located or in the circuit court of the
 23 county in which the cause of action arose, if the county is located
 24 within the state. All summonses and legal notices of every kind
 25 shall be served on the commission by leaving a copy thereof at the
 26 principal office of the commission with the person in charge
 27 thereof or with the secretary of the commission. However, no such
 28 action shall be deemed commenced until a copy of the summons
 29 and complaint, cross complaint, petition, bill, or pleading is
 30 served upon the attorney general of Indiana.

31 (5) To acquire, lease, construct, maintain, repair, police, and
 32 operate a port or ~~port~~ project as provided in this chapter, and to
 33 establish rules and regulations for the use of ~~such the~~ port or ~~port~~
 34 project, and other property subject to the jurisdiction and control
 35 of the commission.

36 (6) To issue ~~port both taxable and tax exempt~~ revenue bonds of
 37 the state, payable solely from revenues, as herein provided, for the
 38 purpose of paying all or any part of the cost of a port or ~~port~~
 39 project.

40 (7) **To lend the proceeds of any revenue bonds to a borrower**
 41 **under a loan agreement and to provide for such security as**
 42 **the commission considers advisable. The borrower shall be**

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1 **required to apply the proceeds of the loan to capital**
 2 **expenditures for a project authorized by this chapter, and the**
 3 **borrower may not apply the proceeds of the loan to any other**
 4 **purpose.**

5 **(8)** To acquire, lease, and operate tug boats, locomotives, and any
 6 and every kind of motive power and conveyances or appliances
 7 necessary or proper to carry passengers, goods, wares,
 8 merchandise, or articles of commerce in, on, or around the port or
 9 ~~port~~ project.

10 ~~(8)~~ **(9)** To fix and revise from time to time and to collect fees,
 11 rentals, tolls, and other charges for the use of any port or ~~port~~
 12 project.

13 ~~(9)~~ **(10)** To acquire, obtain option on, hold, and dispose of real
 14 and personal property in the exercise of its powers and the
 15 performance of its duties under this chapter.

16 ~~(10)~~ **(11)** To designate the location and establish, limit, and
 17 control points of ingress to and egress from ~~the a port property or~~
 18 **project.**

19 ~~(11)~~ **(12)** To lease to others for development or operation such
 20 portions of any port or port project, on such terms and conditions
 21 as the commission shall deem advisable.

22 ~~(12)~~ **(13)** To make and enter into all contracts, undertakings, and
 23 agreements necessary or incidental to the performance of its
 24 duties and the execution of its powers under this chapter. When
 25 the cost of any such contract for construction, or for the purchase
 26 of equipment, materials, or supplies, involves an expenditure of
 27 more than twenty-five thousand dollars (\$25,000), the
 28 commission shall make a written contract with the lowest and best
 29 bidder after advertisement for not less than two (2) consecutive
 30 weeks in a newspaper of general circulation in ~~Marion County,~~
 31 ~~Indiana,~~ **the county where the construction will occur** and in
 32 such other publications as the commission shall determine. The
 33 notice shall state the general character of the work and the general
 34 character of the materials to be furnished, the place where plans
 35 and specifications therefor may be examined, and the time and
 36 place of receiving bids. Each bid shall contain the full name of
 37 every person or company interested in it and shall be
 38 accompanied by a sufficient bond or certified check on a solvent
 39 bank that if the bid is accepted a contract will be entered into and
 40 the performance of its proposal secured. The commission may
 41 reject any and all bids. A bond with good and sufficient surety as
 42 shall be approved by the commission, shall be required of all

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contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract.

(14) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

~~(13)~~ **(15)** To employ an executive director or manager, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation, but no compensation of any employee of the commission shall exceed the compensation of the highest paid officer or employee of the state. However, the employment of an attorney shall be subject to such approval of the attorney general as may be required by law.

~~(14)~~ **(16)** To receive and accept from any federal agency grants for or in aid of the construction of any port or ~~port~~ project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

~~(15)~~ **(17)** To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

~~(16)~~ **(18)** To do all acts and things necessary or proper to carry out the powers expressly granted in this chapter. ~~and~~

~~(17)~~ **(19)** To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the commission.

SECTION 7. IC 8-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. If the commission shall find it necessary to change the location of any portion of any public road, **highway**, railroad, or public utility facility, it shall cause the same to be reconstructed at such location as the division of government having jurisdiction over such road, highway, railroad or public utility facility shall deem most favorable and of substantially the same type and in as good condition as the original road, highway, or railroad or public utility facility. The cost of such reconstruction, relocation, or removal and any damage incurred in changing the location of any such road, highway, railroad, or public utility facility, shall be ascertained and



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1 paid by the commission as a part of the cost of ~~such the~~ port or ~~port~~
 2 project. The commission shall have authority to petition the circuit
 3 court of the county wherein is situated any public road or part thereof,
 4 affected by the location therein of any port or ~~port~~ project, for the
 5 vacation or relocation of such road or any part thereof with the same
 6 force and effect as statutes in effect on March 2, 1961, to the
 7 inhabitants of any municipality or governmental subdivision of the
 8 state. The proceedings upon such petition, whether it be for the
 9 appointment of appraisers or otherwise, shall be the same as provided
 10 by statutes in effect on March 2, 1961, for similar proceedings upon
 11 such petitions. In addition to the foregoing powers, the commission and
 12 its authorized agents and employees, after proper notice, may enter
 13 upon any lands, waters, and premises in the state for the purpose of
 14 making surveys, soundings, drillings, and examinations as are
 15 necessary or proper for the purposes of this chapter, and such entry
 16 shall not be deemed a trespass, nor shall an entry for such purpose be
 17 deemed an entry under any condemnation proceedings which may be
 18 then pending; provided, that before entering upon the premises of any
 19 railroad, notice shall be given to the superintendent of such railroad
 20 involved at least five (5) days in advance of such entry, and provided,
 21 that no survey, sounding, drilling, and examination shall be made
 22 between the rails, or so close to a railroad track, as would render said
 23 track unusable. The commission shall make reimbursement for any
 24 actual damage resulting to such lands, waters, and premises and to
 25 private property located in, on, along, over, or under such lands, waters
 26 and premises, as a result of such activities. The state of Indiana, subject
 27 to the approval of the governor, hereby consents to the use of lands
 28 owned by it, including lands lying under water and riparian rights,
 29 which are necessary or proper for the construction or operation of any
 30 port or ~~port~~ project, provided adequate compensation is made for such
 31 use. The commission shall also have power to make reasonable
 32 regulations for the installation, construction, maintenance, repair,
 33 renewal, relocation, and removal of tracks, pipes, mains, conduits,
 34 cables, wires, towers, poles, and other equipment and appliances
 35 (referred to in this section as "public utility facilities") of any public
 36 utility in, on, along, over, or under any port or ~~port~~ project. Whenever
 37 the commission shall determine that it is necessary that any such public
 38 utility facilities which are, on or after March 2, 1961, located in, on,
 39 along, over, or under any ~~such~~ port or ~~port~~ project should be relocated
 40 or should be removed from ~~such the~~ port or ~~port~~ project, the public
 41 utility owning or operating such facilities shall relocate or remove the
 42 same in accordance with the order of the commission. ~~provided;~~

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1 However, ~~that~~ the cost and expenses of such relocation or removal,
 2 including the cost of installing such facilities in a new location or new
 3 locations, and the cost of any lands, or any rights or interests in lands,
 4 and any other rights, acquired to accomplish such relocation or
 5 removal, shall be ascertained and paid by the commission as a part of
 6 the cost of ~~such the~~ port or ~~port~~ project, excepting, however, cases in
 7 which such equipment or facilities are located within the limits of
 8 highways or public thoroughfares being constructed, reconstructed, or
 9 improved under the provisions of this chapter. In case of any such
 10 relocation or removal of facilities, the public utility owning or
 11 operating the same, its successors or assigns, may maintain and operate
 12 such facilities, with the necessary appurtenances, in the new location
 13 or new locations, for as long a period, and upon the same terms and
 14 conditions, as it had the right to maintain and operate such facilities in
 15 their former location or locations subject, however, to the state's right
 16 of regulation under its police powers.

17 SECTION 8. IC 8-10-1-9 IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The commission shall have
 19 power to adopt such by-laws, rules and regulations as it may deem
 20 advisable for the control and regulation of any port or ~~port~~ project or
 21 traffic on any port or ~~port~~ project, for the protection of and preservation
 22 of property under its jurisdiction and control, and for the maintenance
 23 and preservation of good order within the property under its control,
 24 and such by-laws, rules and regulations shall be published in a
 25 newspaper of general circulation in Marion County, Indiana, and in
 26 such other manner as the commission shall prescribe; however, such
 27 rules and regulations shall provide that public officers shall be afforded
 28 ready access, while in performance of their official duty, to all property
 29 under the jurisdiction or control of the commission without the
 30 payment of tolls.

31 (b) Such rules and regulations adopted under this section shall be
 32 adopted under IC 4-22-2.

33 (c) A person who violates a rule or regulation of the commission
 34 commits a Class C infraction.

35 SECTION 9. IC 8-10-1-10 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. **(a)** The commission
 37 is hereby authorized and empowered to acquire by purchase whenever
 38 it shall deem such purchase expedient, any land, property, rights,
 39 right-of-ways, franchises, easements and other interests in lands,
 40 including lands under water and riparian rights, as it may deem
 41 necessary or convenient for the construction and operation of any port
 42 or ~~port~~ project, upon such terms and at such price as may be considered

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by it to be reasonable and can be agreed upon between the commission and the owner thereof, and to take title thereto in the name of the state.

(b) The commission is hereby further authorized and empowered to sell, transfer and convey any such land or any interest therein so acquired, or any portion thereof, when the same shall no longer be needed for such purposes. ~~and it~~ **The commission** is further authorized and empowered to transfer and convey any such lands or interest therein as may be necessary or convenient for the construction and operation of any port or ~~port~~ project, or as otherwise required under the provisions of this chapter. ~~Provided, That~~ **However**, no such sale shall be made without **first obtaining** the approval of the Governor, ~~first obtained~~ and **a sale may not be made** at ~~not~~ less than the appraised value established by three (3) independent appraisers appointed by the Governor. The commission shall be authorized to restrict the use of any land so sold by it and provide for a reversion to the commission in the event the land shall not be used for the purpose represented by the purchaser, and such restrictions and reversions shall be set out in appropriate covenants in the deeds of conveyance, which deeds shall be subject to the approval of the Governor.

(c) The commission shall also be authorized to lease, or grant options to lease, to others for development any portion of the land owned by the commission, on such terms as the commission shall determine to be advantageous. All such leases or options to lease which leases cover a period of more than four (4) years shall be subject to the approval of the Governor. Leases of lands under the jurisdiction or control of the commission shall be made only for such uses and purposes as are calculated to contribute to the growth and development of ~~the port and ports~~, terminal facilities, **and projects** under the jurisdiction or control of the commission. In the event the commission shall lease to others a building or structure financed by the issuance of revenue bonds the rental shall be in an amount at least sufficient to pay the interest on and principal of the amount of such bonds representing the cost of such building or structure to the extent such interest and principal is payable during the term of the lease, as well as to pay the cost of maintenance, repair and insurance for such building and a reasonable portion of the commission's administrative expense incurred during the term of the lease which is allocable to such building or structure.

(d) **No tenant, lessee, licensee, owner of real estate located within a port or project, or other person or entity has any right, claim, title, or interest in any real estate, personal property, or common property owned by the commission, a port, a project, or the state,**



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1 unless a written agreement entered into by the commission
2 expressly provides:

3 (1) the exact nature and extent of the right, claim, title, or
4 interest;

5 (2) all the conditions under which the right, claim, title, or
6 interest is granted; and

7 (3) a legal or complete description of the specific property.

8 SECTION 10. IC 8-10-1-11 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. The commission is
10 hereby authorized and empowered to acquire by appropriation, under
11 the provisions of the eminent domain law of the state, any land,
12 including lands under water and riparian rights, property, rights,
13 rights-of-way, franchises, easements or other property necessary or
14 proper for the construction or the efficient operation of any port or port
15 project. The commission shall also be empowered to exercise such
16 powers of eminent domain as may be conferred upon the commission
17 by an act of Congress of the United States now in force, or which may
18 hereafter be enacted. Title to the property condemned shall be taken in
19 the name of the state of Indiana. Nothing herein shall authorize the
20 commission to take or disturb property or facilities constituting all or
21 part of any presently existing or operating public port and nothing
22 herein shall authorize the commission to take or disturb property or
23 facilities belonging to any public utility or to a common carrier engaged
24 in interstate commerce, which property or facilities are required for the
25 proper and convenient operation of such public utility or common
26 carrier, unless provision is made for the restoration, relocation or
27 duplication of such property or facilities elsewhere at the sole cost of
28 the commission excepting however, cases in which such equipment or
29 facilities are located within the limits of existing highways or public
30 thoroughfares.

31 SECTION 11. IC 8-10-1-12 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. (a) A special and
33 distinct revolving fund is hereby created, to be known as the Indiana
34 port fund. Expenditures from said fund shall be made only for the
35 acquisition of land including lands under water and riparian rights, or
36 options for the purchase of such land for a port or project site, and
37 incidental expenses incurred in connection with such acquisition, and
38 for studies in connection with the port or project, and including
39 administrative expenses of the commission. Said fund shall be held in
40 the name of the Indiana port commission, shall be administered by the
41 commission, and all expenditures therefrom shall be made by the
42 commission, subject, however, to the approval by governor and the



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1 state budget committee of all expenditures of moneys advanced to said
 2 fund by the state of Indiana. Requests for such approval shall be made
 3 in such form as shall be prescribed by the budget committee, but
 4 expenditures for acquisition of land including lands under water and
 5 riparian rights, or options for the purchase of such land, shall be
 6 specifically requested and approved as to the land to be acquired and
 7 the amount to be expended. No transfers from said fund to any other
 8 fund of the state shall be made except pursuant to legislative action. All
 9 unexpended funds appropriated to the Indiana board of public harbors
 10 and terminals by Acts 1957, c.286, s.6, are hereby transferred to and
 11 made a part of the Indiana port fund created by this section, and shall
 12 be expended for the purpose and in the manner provided by this
 13 chapter, subject only to the restrictions contained in this chapter and no
 14 others; provided, however, that not to exceed one hundred thousand
 15 dollars (\$100,000) shall be expended for any purpose other than the
 16 acquisition of land, including lands under water and riparian rights, or
 17 options for the purchase of such land for a port **or project** site, and
 18 incidental expenses incurred in connection with such acquisition.

19 (b) Upon the sale of ~~port~~ revenue bonds for any port **or project**, the
 20 funds expended from the Indiana port fund in connection with the
 21 development of such **port or project** and any obligation or expense
 22 incurred by the commission for surveys, preparation of plans and
 23 specifications, and other engineering or other services in connection
 24 with development of such **port or project** shall be reimbursed to the
 25 state general fund from the proceeds of such bonds.

26 SECTION 12. IC 8-10-1-13 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) The commission
 28 is hereby authorized to provide by resolution, at one time or from time
 29 to time, for the issuance of ~~port~~ revenue bonds of the state for the
 30 purpose of paying all or any part of the cost of a port **or project**. The
 31 principal of and the interest on such bonds shall be payable solely from
 32 the revenues specifically pledged to the payment thereof. The bonds of
 33 each issue shall be dated, shall bear interest at any rate, shall mature at
 34 such time or times not exceeding fifty (50) years from the date thereof,
 35 as may be determined by the commission, and may be made
 36 redeemable before maturity, at the option of the commission, at such
 37 price or prices and under such terms and conditions as may be fixed by
 38 the commission in the authorizing resolution.

39 (b) The commission shall determine the form of the bonds,
 40 including any interest coupons to be attached thereto, and shall fix the
 41 denomination or denominations of the bonds and the place or places of
 42 payment of principal and interest which may be at any bank or trust



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company within or without the state.

(c) The bonds shall be signed in the name of the commission, by its chairman or vice chairman or by the facsimile signature of such chairman or vice chairman, and the official seal of the commission, or facsimile thereof, shall be affixed thereto and attested by the secretary-treasurer of the commission, and any coupons attached thereto shall bear the facsimile signature of the chairman of the commission. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

(d) All bonds issued under this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(e) The bonds may be issued in coupon or in registered form, or both, as the commission may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) The bonds shall be sold at public sale in accordance with IC 4-1-5, **except as provided in section 16.5 of this chapter.**

(g) No action to contest the validity of any bonds issued by the commission under this chapter shall be commenced more than thirty (30) days following the adoption of the resolution approving the bonds as provided in this chapter.

SECTION 13. IC 8-10-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the port **or** project for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the commission may provide in the resolution authorizing the issuance of such bonds or in the trust agreement mentioned in this chapter securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from that same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall



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1 exceed the cost of the port **or** project for which the same shall have
 2 been issued, the surplus shall be deposited to the credit of the sinking
 3 fund for such bonds. Prior to the preparation of definitive bonds, the
 4 commission may, under like restrictions, issue interim receipts or
 5 temporary bonds, with or without coupons, exchangeable for definitive
 6 bonds when such bonds shall have been executed and are available for
 7 delivery. The commission may also provide for the replacement of any
 8 bonds which shall become mutilated or shall be destroyed or lost.
 9 **Bonds and any other instruments or the security for the bonds and**
 10 **other instruments that are authorized by this chapter** may be issued
 11 under the provisions of this chapter without obtaining the consent of
 12 any officer, department, division, commission, board, bureau, or
 13 agency of the state, and without any other proceedings or the happening
 14 of any other conditions or things than those proceedings, conditions, or
 15 things which are specifically required by this chapter.

16 SECTION 14. IC 8-10-1-15 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. The commission is
 18 hereby authorized to provide by resolution for the issuance of ~~port~~
 19 ~~revenue~~ refunding bonds of the state payable solely from revenues for
 20 the purpose of refunding any bonds then outstanding which shall have
 21 been issued under the provisions of **section 13 of** this chapter,
 22 including the payment of any redemption premium thereon and any
 23 interest accrued or to accrue to the date of redemption of such bonds,
 24 and, if deemed advisable by the commission, for the additional purpose
 25 of constructing improvements, extensions, or enlargements of the port
 26 **or** project in connection with which the bonds to be refunded shall
 27 have been issued. The issuance of such bonds, the maturities and other
 28 details thereof, the rights of the holders thereof and the rights, duties
 29 and obligations of the commission in respect of the same, shall be
 30 governed by the provisions of this chapter insofar as the same may be
 31 applicable.

32 SECTION 15. IC 8-10-1-16 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. In the discretion of
 34 the commission any bonds issued under the provisions of this act may
 35 be secured by a trust agreement by and between the commission and a
 36 corporate trustee, which may be any trust company or bank having the
 37 powers of a trust company within the state. Any resolution adopted by
 38 the commission providing for the issuance of **revenue** bonds and any
 39 trust agreement pursuant to which such bonds are issued may pledge
 40 or assign all or any portion of the revenues received or to be received
 41 by the commission except such part as may be necessary to pay the cost
 42 of the commission's administrative expenses, operation, maintenance



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and repair and to provide reserves therefor and depreciation reserves required by any bond resolution adopted or trust agreement executed by the commission, but the commission shall not convey or mortgage any port ~~port or~~ project or any part thereof. In authorizing the issuance of bonds for any particular port ~~or~~ project, ~~undertaken in connection with the development of the port,~~ the commission may limit the amount of such bonds that may be issued as a first lien and charge against the revenues pledged to the payment of such bonds or the commission may authorize the issuance from time to time thereafter of additional bonds secured by the same lien to provide funds for the completion of the port ~~or~~ project on account of which the original bonds were issued, or to provide funds to pay the cost of additional ~~port~~ projects undertaken in connection with the development of the port ~~or~~ project, or for both such purposes. Such additional bonds shall be issued on such terms and conditions as may be provided in the bond resolution or resolutions adopted by the commission and in the trust agreement or any agreement supplemental thereto and may be secured equally and ratably without preference, priority or distinction with the original issue of bonds or may be made junior thereto. Any pledge or assignment made by the commission pursuant hereto shall be valid and binding from the time that the pledge or assignment is made and the revenues so pledged and thereafter received by the commission shall immediately be subject to the lien of such pledge or assignment without physical delivery thereof or further act. The lien of such pledge or assignment shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the commission irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation and insurance of the port ~~or~~ project in connection with which such bonds shall have been authorized, the rates of fees, tolls, rentals or other charges, to be collected for the use of the project, and the custody, safeguarding and application of all moneys, and provisions for the employment of consulting engineers in connection with the construction or operation of such project. It shall be lawful for any bank or trust company

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1 incorporated under the laws of the state which may act as depository of
 2 the proceeds of bonds or other funds of the commission, to furnish such
 3 indemnifying bonds or to pledge such securities as may be required by
 4 the commission. Any such trust agreement may set forth the rights and
 5 remedies of the bondholders and of the trustee, and may restrict the
 6 individual right of action by bondholders as is customary in trust
 7 agreements or trust indentures securing bonds or debentures of private
 8 corporations. In addition to the foregoing, any such trust agreement
 9 may contain such other provisions as the commission may deem
 10 reasonable and proper for the security of the bondholders. All expenses
 11 incurred in carrying out the provisions of any such trust agreement may
 12 be treated as a part of the cost of the operation of the port or project.

13 SECTION 16. IC 8-10-1-16.5 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2003]: **Sec. 16.5. (a) In addition to the powers**
 16 **of the commission to issue revenue bonds for the acquisition or**
 17 **construction of property owned by the commission and leased to a**
 18 **lessee, the commission may also issue revenue bonds and lend the**
 19 **proceeds of those bonds to a borrower, with the bonds to be**
 20 **secured by the borrower's promissory note and any other security**
 21 **required by the commission.**

22 (b) If the commission issues revenue bonds as described in
 23 subsection (a), the borrower shall be required to apply the
 24 proceeds of the loan to capital expenditures for a project
 25 authorized by this chapter, and the borrower may not apply the
 26 proceeds of the loan to any other purpose.

27 (c) Revenue bonds issued under this section may be sold either
 28 at public sale or by private negotiation as the commission shall
 29 determine.

30 (d) The commission may require a borrower of the proceeds of
 31 revenue bonds issued under subsection (a) to grant to the
 32 commission a mortgage or other security that the commission
 33 considers appropriate, which the commission may assign to or for
 34 the benefit of the purchase of such revenue bonds.

35 (e) All other provisions set forth in this chapter relating to the
 36 issuance of revenue bonds apply to revenue bonds issued under this
 37 section except to the extent inconsistent with this section.

38 SECTION 17. IC 8-10-1-17 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commission
 40 shall be authorized to fix, review, charge and collect fees, tolls, rentals
 41 and other charges for the use of the port, port project, ports, projects,
 42 terminal facilities and lands under the jurisdiction or control of the

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1 commission or services rendered by the commission, and the aggregate
 2 thereof shall provide revenues at least sufficient to pay the cost of
 3 operation, maintenance and repair of the port **or project** and terminal
 4 facilities, including the administration expenses of the commission, and
 5 in case revenue bonds are issued, sufficient to pay the interest on and
 6 principal of the bonds in accordance with their terms, and also
 7 sufficient to establish and maintain reserves created for all such
 8 purposes and for depreciation purposes. The fixing and collection of
 9 such fees, tolls, rentals and other charges and the expenditure of the
 10 revenues derived therefrom shall not be subject to the supervision or
 11 regulation by any other officer, commission, board, bureau or agency
 12 of the state. After such bonds have been fully paid and discharged and
 13 all obligations under any trust agreement securing the same have been
 14 performed or satisfied, any remaining surplus net revenues and all
 15 surplus net revenues thereafter derived from the operation of ~~such the~~
 16 port **or project** shall be paid into the state general fund.

17 SECTION 18. IC 8-10-1-19 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Any holder of
 19 bonds issued under the provisions of this chapter or any of the coupons
 20 appertaining thereto, and the trustee under any trust agreement, except
 21 to the extent the rights given in this chapter may be restricted by the
 22 authorizing resolution or trust agreement, may, either at law or in
 23 equity, by suit, action, mandamus, or other proceedings, protect and
 24 enforce any and all rights under the statutes of the state or granted
 25 under this chapter or under such trust agreement, or the resolution
 26 authorizing the issuance of such bonds, and may enforce and compel
 27 the performance of all duties required by this chapter or by such trust
 28 agreement or resolution to be performed by the commission or by any
 29 officer thereof, including the fixing, charging, and collecting of fees,
 30 tolls, rentals, or other charges for the use of the port or ~~port~~ project.

31 SECTION 19. IC 8-10-1-20 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. Each port or ~~port~~
 33 project, as defined in section 2 of this chapter, when constructed and
 34 ~~opened to traffic~~ **placed in operation** shall be maintained and kept in
 35 good condition and repair by the commission. Each such project shall
 36 also be policed and operated by such force of police, tolltakers, and
 37 other operating employees as the commission may in its discretion
 38 employ. All public or private property damaged or destroyed in
 39 carrying out the powers granted by this chapter shall be restored or
 40 repaired and placed in its original condition as nearly as practicable or
 41 adequate compensation made therefor out of funds provided under the
 42 authority of this chapter.



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SECTION 20. IC 8-10-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. All counties, cities, towns, townships and other political subdivisions and all public agencies and commissions of the state, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the commission at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, townships, other political subdivisions or public agencies and commissions of the state may deem reasonable and fair and without the necessity for an advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real **or personal** property owned by any such municipality or governmental subdivision which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

SECTION 21. IC 8-10-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. **(a)** The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or of operations of the ~~project~~ **commission's ports and projects**. The accounts, books and records of the Indiana port commission shall be audited annually by the state board of accounts, and the cost of such audit may be treated as a part of the cost of construction or of operations of the ~~port project~~ **commission's ports and projects**.

(b) The commission shall, following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor. Each member of the general assembly shall receive a copy of such report by making a request for it to the chairman of the commission. Each report shall set forth a complete operating and financial statement for the commission during the fiscal year it covers.

SECTION 22. IC 8-10-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. Revenue bonds issued by the commission under the provisions of this chapter shall constitute legal investments for any private trust funds, and the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, and industrial loan and investment companies, and any other financial institutions organized

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under Indiana statutes. **The bonds are also made securities that may be deposited with and received by all public officers and bodies of this state or any agency or political subdivisions of this state and all municipalities and public commissions for any purpose for which the deposit of bonds or other obligations of this state is now or may be later authorized by law.**

SECTION 23. IC 8-10-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions.

(b) As the operation and maintenance of a port **or** project by the commission will constitute the performance of essential governmental functions, the commission shall not be required to pay any taxes or assessments upon any port **or** project or any property acquired or used by the commission under the provisions of this chapter or upon the income therefrom. The bonds issued by the commission, the interest thereon, the proceeds received by a holder from the sale of such bonds to the extent of the holder's cost of acquisition, or proceeds received upon redemption prior to maturity or proceeds received at maturity, and the receipt of such interest and proceeds shall be exempt from taxation in the state of Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(c) Notwithstanding any other statute, a lessee's leasehold estate in land that is part of a port **or project** and that is owned by the state or the commission is exempt from property taxation.

SECTION 24. IC 8-10-1-30 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2003]: **Sec. 30. The state hereby pledges and agrees with the holders of any bonds issued under this chapter that the state will not limit or alter the rights vested in the commission to fulfill the terms of any agreements made with the holders or in any way impair the rights or remedies of the holders until the bonds, together with the interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The commission is authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds.**

SECTION 25. IC 8-10-2-2 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. **(a)** In addition to the
 2 powers conferred upon the Indiana port commission by other
 3 provisions of this article, the commission, whenever it finds that the
 4 economic welfare of the state would thereby be benefited, by additional
 5 employment opportunities, or by additional diversification of industry
 6 within the state, or by increased income or prosperity to the state and
 7 its residents, or for any other reason, shall have the power to acquire,
 8 construct, maintain, repair, police, and lease to others such facilities for
 9 manufacturing, storage, or processing of goods, or for the carrying on
 10 of commercial, business, or recreational activities as the commission
 11 further finds will increase the ~~water-borne~~ traffic into or out of the port
 12 **or project**. Any such facilities and the site thereof shall not be exempt
 13 from property taxation, and the lessee in any lease thereof shall agree
 14 to pay all property taxes levied on such facilities and the site thereof.

15 **(b)** In exercising the powers granted in this section, the commission
 16 shall have all the powers granted to it by this article, in connection with
 17 a port **or project**, and the ~~term terms~~ "port" **and** "project", as used in
 18 IC 8-10-1, shall be deemed to include facilities, adjuncts, and
 19 appurtenances of the character referred to in this section.

20 **(c)** It is further declared that the acquisition, construction,
 21 maintenance, repair, policing of, and leasing to others of such facilities
 22 under the conditions set forth in this section is a public purpose.

23 **(d)** Nothing in this section shall authorize the Indiana port
 24 commission to take, condemn, or disturb any property right or interest
 25 in property, existing on March 10, 1967, including permits and
 26 authorities to fill and reclaim submerged lands, or any facilities
 27 constituting all or part of any operating property or any private or
 28 public port. The Indiana port commission shall make reimbursement
 29 for any actual damage to any public or private facilities, including but
 30 not limited to breakwaters, water intakes, wharves, piers, boat docks,
 31 warehouses, and pipeline equipment resulting from the exercise by it
 32 of any powers granted to it by this section.

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